

DECLARATION AND POWER OF ATTORNEY

As a below named inventor(s), I declare that:

My residence, post office address and citizenship are as stated below next to my name, that I believe I am the original, first and single inventor of the subject matter which is claimed and for which a patent is sought on the invention or design METHOD AND APPARATUS FOR OPTICAL ELEMENT MANAGEMENT the specification of which (check one):

X is attached hereto; or

\_\_\_ was filed on \_\_\_ as Application Serial No. \_\_\_

and was amended on \_\_\_ (if applicable);

that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above; and that I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in 37 C.F.R. § 1.56.

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application(s) in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to us to be material to patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application:

Application  
Serial Number  
None

Date  
None

Status  
None

We hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

None  
(Application No.)

None  
(Filing Date)

I hereby appoint:

Practitioners at Customer Number



all of the firm of Baker Botts L.L.P., our attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith, and to file and prosecute any international patent applications filed thereon before any international authorities.

Send Correspondence To:  
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Direct Telephone Calls To:  
Douglas M. Kubehl  
at (214) 953-6486  
Atty. Docket No. 069204.0108

We declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full name of inventor:

Inventor's signature

  
HERVE A. FEVRIER

Date

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12 / 6 / 2 0 0 1

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ZHI (NMI) FENG

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Inventor(s): Herve A. Fevrier et al.

Attorney's Docket: 069204.0108

Title: METHOD AND APPARATUS FOR OPTICAL ELEMENT MANAGEMENT

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9(f) & 1.27(c)) -- SMALL BUSINESS CONCERN**

I hereby declare that I am an official of the small business concern empowered to act on behalf of the concern identified below:

Name of Small Business Concern: Xtera Communications, Inc.  
Address of Small Business Concern: 500 West Bethany Drive  
Allen, Texas 75013-3704

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled METHOD AND APPARATUS FOR OPTICAL ELEMENT MANAGEMENT by inventors, Herve A. Fevrier, Paul D. Pantages, Michel W. Chbat, Anand (nmi) Gonugutla, and Zhi (nmi) Feng, described in the specification filed herewith.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights in the invention is listed below, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e):

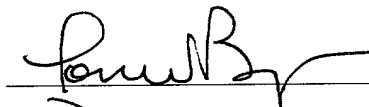
NONE

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or my maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Name of Person Signing: Jon W. Bayless  
Title of Person if other than owner: Director  
Address of Person Signing: 500 West Bethany Drive  
Allen, Texas 75013-3704

Signature:



Date:

Dec 6, 2001